

### Remarks

This response is filed within six months from February 9, 2007, and is filed with a request for extension of time. The Examiner noted that the objection to the oath for this application has been withdrawn. The Examiner also withdrew the rejections of claims 1-11 and 15-17 under 35 U.S.C. § 112. Claims 1-17 were pending in the application and the Examiner rejected claims 1-17. The Examiner rejected claims 1-2 and 9-17 under 35 U.S.C. § 102(e) and claims 3-4 and 5-8 under 35 U.S.C. § 103(a). Applicants amend independent claims 1, 13 and 15. Support for the amendments may be found in the originally filed specification, claims, and figures. No impermissible new matter has been added by these amendments. Reconsideration of the application is respectfully requested.

In response to Applicants' arguments filed September 15, 2006, the Examiner stated that she was unable to find a definition or equation in the specification for the calculation of the "perceived benefit." Applicants direct the examiner to paragraphs [0060] and [0068]-[0073] of the published version of the pending application (Pub. No. 20020095316) for details about the derivation of "perceived benefits." For example, in paragraph [0060] the specification explains that the determination of "perceived benefits" is made by comparison of the proposed disease/treatment group options with a selected reference disease/treatment group:

a disease/treatment group, preferably one of the proposed disease/treatment group options, is selected as the reference disease/treatment group. Assessments of the perceived benefit of the remaining proposed disease/treatment group options will be made by comparison to the perceived benefit of the reference disease/treatment group.

The specification further discloses that the quantification of "perceived benefits" may also be "derived from a cumulation of the subject's responses to separate inquiries into an explicit set of component benefit criteria, such as length of life, quality of life, and productivity." [0068]. In

addition, the pending application also discloses an exemplar formula for determining the perceived benefit for the given plan design option in paragraph [0073], calculating Per-Patient Perceived Benefits in paragraphs [0084]-[0085] and calculating Population-Based Perceived Benefits in paragraphs [0087]-[0091].

In contrast, the “perceived benefits” of Hyman relate solely to financial costs and not are quantified in terms of numerical data relating to comparisons of proposed treatments to a selected reference disease/treatment group or other attributes, such as length of life, quality of life, or productivity. Accordingly, the perceived benefit mentioned in Hyman is expressed in purely monetary terms: “The employer may encourage its employee to opt ‘down’ and/or ‘out’ by offering monetary incentives in the form of allowances” (col. 7, lines 24-26). As such, Applicants respectfully request reconsideration of their September 15, 2006 arguments in light of this clarification.

***Claim Rejections – 35 U.S.C. Section 102***

The Examiner rejected claims 1-2 and 9-17 under 35 U.S.C. § 102 (e) as being anticipated by Hyman, U.S. Patent No. 6,092,047. Applicants respectfully traverse.

The Examiner asserts that Hyman discloses “calculating the average perceived benefit for each plan design option relative to the perceived benefit for the reference plan design option” where the average perceived benefit is obtained by “providing the subject group with information about each plan design option and inquiries to elicit responses comparing each plan design option to the reference plan design option.” Office Action at p.3. However, the passages the Examiner cites do not support this assertion. At best, Hyman provides information about “the monetary incentive provided by the employer to its employees to opt ‘down’ or ‘out’ of certain medical coverage.” (Col. 7:lines 26-34). Accordingly the responses or “perceived

benefits” of Hyman are solely in response to monetary incentives, rather than benefits in terms of length of life, quality of life, or productivity, or by comparison of the proposed disease/treatment group options with a selected reference disease/treatment group. Hyman therefore does not disclose or suggest “calculating the average perceived benefit for each plan design option relative to the perceived benefit for the reference plan design option, wherein the perceived benefit is quantified in terms of at least one of: a comparison of a proposed disease/treatment group option with the reference plan design option, length of life, quality of life, and productivity” as recited in independent claim 1. Nor does Hyman disclose or suggest an “the processor programmed for calculating the average perceived benefit for each plan design option relative to the perceived benefit for the reference plan design option, wherein the perceived benefit is quantified in terms of at least one of: a comparison of a proposed disease/treatment group option with the reference plan design option, length of life, quality of life, and productivity” as recited in independent claim 13. Nor does Hyman disclose or suggest “calculating the average perceived benefit for each plan design option, wherein the perceived benefit is quantified in terms of at least one of: a comparison of a proposed disease/treatment group option with the reference plan design option, length of life, quality of life, and productivity” as recited in independent claim 15.

In addition, the Examiner asserts that “Hyman discloses a method in which the group members are repeatedly surveyed to determine which whether the employees will opt down or out of certain benefits” and that this is equates to “readministering inquiries to the subject group to elicit revised responses comparing each plan design option to the reference plan design option.” (Office Action at p. 6). However, Hyman merely discloses “poll[ing] its employees as to which amounts would be effective incentives..[so that ] its employees [can] opt ‘down’ or

‘out’.” (Col. 7:lines 28-33). Moreover Hyman provides that linear equations used to estimate the total costs of the program can be facilitated by “polling the employees” to “estimate [] how many employees are likely to opt down or out at a large enough incentive.” (Col. 7; lines 47-53). Accordingly, Hyman method of polling is limited to monetary incentives, where the amount of incentive is tied to whether the employee opts up or down. Hyman does conduct follow-up polls to further ascertain the employee’s responses in terms of length of life, quality of life, and productivity. That is, Hyman does not teach or disclose an input device “capable of receiving data representing revised responses of the subject group to the inquiries which have been readministered following displaying data representative of the responses to the subject group” as similarly recited in claim 14.

Claims 2 and 9-12 variously depend from independent claim 1 and contain all the elements therein, claim 14 depends from independent claim 13 and contains all the elements therein, and claims 16-17 variously depend from independent claim 15 and contain all the elements therein. Therefore, Applicants respectfully submit that claims 1-2 and 9-17 are differentiated from the cited art for at least for the same reasons as set forth above, in addition to their own respective features.

### ***Claim Rejections – 35 U.S.C. Section 103***

The Examiner rejected claims 3-4 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Hyman. Applicants respectfully traverse.

As discussed above, Hyman does not disclose or suggest “calculating the average perceived benefit for each plan design option relative to the perceived benefit for the reference plan design option, wherein the perceived benefit is quantified in terms of at least one of: a

comparison of a proposed disease/treatment group option with the reference plan design option, length of life, quality of life, and productivity” as recited in independent claim 1.

Claims 3-4 variously depend from independent claim 1 and contain all the elements therein. Therefore, Applicants respectfully submit that claims 3-4 are differentiated from the cited art for at least for the same reasons as set forth above, in addition to their own respective features.

In addition, the Examiner rejected claims 5-8 under 35 U.S.C. § 103(a) as being unpatentable over Hyman as applied to claim 1 and further in view of Warrady, U.S. Patent No. 6,067,522. Applicants respectfully traverse.

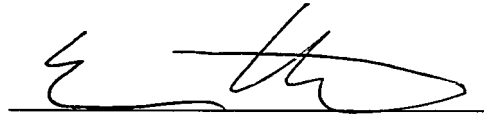
As discussed above, Hyman does not disclose or suggest “calculating the average perceived benefit for each plan design option relative to the perceived benefit for the reference plan design option, wherein the perceived benefit is quantified in terms of at least one of: a comparison of a proposed disease/treatment group option with the reference plan design option, length of life, quality of life, and productivity” as recited in independent claim 1.

Warrady, nor any combination of Warrady and Hyman, do not teach or disclose “calculating the average perceived benefit for each plan design option relative to the perceived benefit for the reference plan design option, wherein the perceived benefit is quantified in terms of at least one of: a comparison of a proposed disease/treatment group option with the reference plan design option, length of life, quality of life, and productivity” as recited in independent claim 1. Claims 5-8 variously depend from independent claim 1 and contain all the elements therein. Therefore, Applicants respectfully submit that claims 3-4 are differentiated from the cited art for at least for the same reasons as set forth above, in addition to their own respective features.

Applicants respectfully submit that the pending claims properly set forth that which Applicants regard as their invention and are allowable over the cited art. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject Application.

Respectfully submitted,

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